

# Calendar No. 149

117TH CONGRESS  
1ST SESSION

# S. 3008

To establish the Federal Rainy Day Fund to control emergency spending.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 2021

Mr. BRAUN introduced the following bill; which was read the first time

OCTOBER 20, 2021

Read the second time and placed on the calendar

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## A BILL

To establish the Federal Rainy Day Fund to control  
emergency spending.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LIMITATIONS ON EMERGENCY SPENDING.**

4       (a) DEFINITIONS.—In this section—

5           (1) the term “discretionary spending limit” has  
6       the meaning given that term in section 250(c) of the  
7       Balanced Budget and Emergency Deficit Control  
8       Act of 1985 (2 U.S.C. 900(c));

1                         (2) the term “emergency” means any occasion  
2                         or instance for which Federal assistance is needed to  
3                         supplement State and local efforts and capabilities  
4                         to save lives and to protect property and public  
5                         health and safety, or to lessen or avert the threat of  
6                         a catastrophe in any part of the United States;

7                         (3) the term “Fund” means the Federal Rainy  
8                         Day Fund established under subsection (c)(1); and

9                         (4) the term “previous year’s nonemergency  
10                         discretionary spending” means the amount of the  
11                         discretionary spending limit for all categories for the  
12                         most recent previous fiscal year for which there was  
13                         a discretionary spending limit, excluding any adjust-  
14                         ment for the fiscal year for amounts designated as  
15                         being for an emergency requirement under section  
16                         251(b)(2)(A)(i) of the Balanced Budget and Emer-  
17                         gency Deficit Control Act of 1985 (2 U.S.C.  
18                         901(b)(2)(A)(i)), as in effect on the day before the  
19                         date of enactment of this Act.

20                         (b) SENSE OF THE SENATE.—It is the sense of the  
21                         Senate that saving for a rainy day should be accompanied  
22                         by offsets in other programs so that the Federal Govern-  
23                         ment does not live beyond its means.

24                         (c) FEDERAL RAINY DAY FUND.—

1                             (1) ESTABLISHMENT.—There is established in  
2                             the Treasury an account to be known as the “Fed-  
3                             eral Rainy Day Fund”.

4                             (2) FUNDING.—For fiscal year 2021 and each  
5                             fiscal year thereafter, there is authorized to be ap-  
6                             propriated to the Fund an amount equal to 2 per-  
7                             cent of the amount of previous year’s nonemergency  
8                             discretionary spending.

9                             (3) AVAILABILITY.—Amounts in the Fund shall  
10                             remain available until expended, in accordance with  
11                             subsection (d).

12                             (d) USE OF FEDERAL RAINY DAY FUND.—

13                             (1) PROHIBITION ON USING FEDERAL RAINY  
14                             DAY FUND FOR NONEMERGENCIES.—

15                             (A) POINT OF ORDER AGAINST USE FOR  
16                             NONEMERGENCIES.—

17                             (i) IN GENERAL.—In the Senate, it  
18                             shall not be in order to consider a provi-  
19                             sion in a bill, joint resolution, motion,  
20                             amendment, amendment between the  
21                             Houses, or conference report that appro-  
22                             priates funds from the Federal Rainy Day  
23                             Fund for any program, project, or activity  
24                             that is not an emergency.

(B) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A)(i) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974 (2 U.S.C. 644(e)).

(C) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill or joint resolution, upon a point of order being made by any Senator pursuant to subparagraph (A)(i), and such point of order being sustained, such material contained in such conference report or House amendment shall be stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment,

1           as the case may be, which further amendment  
2        shall consist of only that portion of the con-  
3        ference report or House amendment, as the  
4        case may be, not so stricken. Any such motion  
5        in the Senate shall be debatable. In any case in  
6        which such point of order is sustained against  
7        a conference report (or Senate amendment de-  
8        rived from such conference report by operation  
9        of this subparagraph), no further amendment  
10      shall be in order.

11           (D) NO WAIVER OR SUSPENSION.—In the  
12        Senate, it shall not be in order to move to waive  
13        or suspend subparagraph (A).

14           (2) USE OF FEDERAL RAINY DAY FUND  
15        FIRST.—

16           (A) POINT OF ORDER AGAINST REGULAR  
17        APPROPRIATIONS FOR EMERGENCIES.—

18           (i) IN GENERAL.—In the Senate, it  
19        shall not be in order to consider a provi-  
20        sion in a bill, joint resolution, motion,  
21        amendment, amendment between the  
22        Houses, or conference report that appro-  
23        priates funds from the General Fund of  
24        the Treasury for an emergency, unless

1                   there are no unobligated funds in the Fed-  
2                   eral Rainy Day Fund.

3                   (ii) POINT OF ORDER SUSTAINED.—If  
4                   a point of order is made by a Senator  
5                   against a provision described in clause (i),  
6                   and the point of order is sustained by the  
7                   Chair, that provision shall be stricken from  
8                   the measure and may not be offered as an  
9                   amendment from the floor.

10                  (B) FORM OF THE POINT OF ORDER.—A  
11                  point of order under subparagraph (A)(i) may  
12                  be raised by a Senator as provided in section  
13                  313(e) of the Congressional Budget Act of  
14                  1974 (2 U.S.C. 644(e)).

15                  (C) CONFERENCE REPORTS.—When the  
16                  Senate is considering a conference report on, or  
17                  an amendment between the Houses in relation  
18                  to, a bill or joint resolution, upon a point of  
19                  order being made by any Senator pursuant to  
20                  subparagraph (A)(i), and such point of order  
21                  being sustained, such material contained in  
22                  such conference report or House amendment  
23                  shall be stricken, and the Senate shall proceed  
24                  to consider the question of whether the Senate  
25                  shall recede from its amendment and concur

1       with a further amendment, or concur in the  
2       House amendment with a further amendment,  
3       as the case may be, which further amendment  
4       shall consist of only that portion of the con-  
5       ference report or House amendment, as the  
6       case may be, not so stricken. Any such motion  
7       in the Senate shall be debatable. In any case in  
8       which such point of order is sustained against  
9       a conference report (or Senate amendment de-  
10      rived from such conference report by operation  
11      of this subparagraph), no further amendment  
12      shall be in order.

13                     (D) NO WAIVER OR SUSPENSION.—In the  
14       Senate, it shall not be in order to move to waive  
15       or suspend subparagraph (A).

16                     (3) POINT OF ORDER AGAINST EMERGENCY  
17       SPENDING.—Section 314 of the Congressional Budg-  
18       et Act of 1974 (2 U.S.C. 645) is amended—

19                         (A) in subsection (d)—

20                             (i) in paragraph (1), by striking “con-  
21       tains a provision providing new budget au-  
22       thority and outlays or reducing revenue,  
23       and a designation of such provision as an  
24       emergency requirement pursuant to  
25       251(b)(2)(A) of the Balanced Budget and

1                   Emergency Deficit Control Act of 1985”  
2                   and inserting “contains an appropriation  
3                   from the Federal Rainy Day Fund for an  
4                   emergency (as defined in section \_\_\_\_\_ of  
5                   the \_\_\_\_\_ Act)”;  
6                   (ii) in paragraph (2)(A), by striking  
7                   “a designation” and inserting “an appro-  
8                   priation”; and  
9                   (B) in subsection (e)—  
10                  (i) in the subsection heading, by strik-  
11                  ing “DESIGNATION” and inserting “AP-  
12                  PRIORITATION”;  
13                  (ii) in paragraph (1), by striking “an  
14                  emergency designation in that measure,  
15                  that provision making such a designation”  
16                  and inserting “a provision containing an  
17                  appropriation from the Federal Rainy Day  
18                  Fund for an emergency (as defined in sec-  
19                  tion \_\_\_\_\_ of the \_\_\_\_\_ Act, that provi-  
20                  sion”;  
21                  (iii) in paragraph (2), by striking  
22                  “three-fifths” each place it appears and in-  
23                  serting “two-thirds”;  
24                  (iv) by striking paragraph (3); and

1                             (v) by redesignating paragraphs (4)  
2                             and (5) as paragraphs (3) and (4), respec-  
3                             tively.

4         (e) GAO STUDY.—The Comptroller General of the  
5     United States shall submit to Congress a report assessing  
6     the relationship between emergency, disaster, and wildfire  
7     spending, which shall include recommendations, if any, to  
8     modify the spending that qualifies as emergency spending.

9         (f) REPEAL OF ADJUSTMENT FOR EMERGENCY  
10 SPENDING.—Section 251(b)(2)(A) of the Balanced Budg-  
11 et and Emergency Deficit Control Act of 1985 (2 U.S.C.  
12 901(b)(2)(A)) is amended—

13                             (1) in the subparagraph heading, by striking  
14     “EMERGENCY APPROPRIATIONS; OVERSEAS” and in-  
15     serting “OVERSEAS”;

16                             (2) by striking “that—” and all that follows  
17     through “(ii) the Congress” and inserting “that the  
18     Congress”;

19                             (3) by striking “designates,” and all that fol-  
20     lows through “the adjustment” and inserting “des-  
21     ignates, the adjustment”; and

22                             (4) by striking “designated as emergency re-  
23     quirements or for” and inserting “designated for”.

24         (g) EFFECTIVE DATE.—This section and the amend-  
25     ments made by this section shall—

- 1                   (1) take effect on the date of enactment of this  
2                   Act; and  
3                   (2) apply with respect to fiscal year 2022 and  
4                   each fiscal year thereafter.



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